IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8475 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL HASUMATIBEN MADHAVLAL

Versus

STATE OF GUJARAT

Appearance:

MR AD OZA for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

MR SN SHELAT for Respondent No. 2

NOTICE SERVED for Respondent No. 3, 4

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 01/12/2000

ORAL JUDGEMENT

1. The petitioner has approached this Court being aggrieved by the Order made by the Municipal Arts and Science College, which is produced on record vide

Annexure-B, inter alia communicating the petitioner that the appointment was in anticipation of the approval that may be granted by the University and the University has refused to grant the approval as the petitioner is not holding B.A. Degree from a recognized University by the University Grants Commission.

2. It is the case of the petitioner that in view of the advertisement, an application was made and the petitioner was selected and appointed on 15/9/1992. It is her case that on 19/10/1992, a letter of termination vide Annexure-B was issued though she had passed Bachelor of Rural Studies (B.R.S.) with 66.8% from Mahila Gram Vidhyapeeth, Nardipur which is equivalent to B.A. Degree of the recognized University and that thereafter, she obtained M.A. Degree in the year 1992.

3. On behalf of the University, Assistant Registrar, Shri S.N. Patel, has filed an affidavit inter alia pointing out that the appointment was subject to the approval of the University. The petitioner was offered appointment to the post of Lecturer in the subject of Home Science. The petitioner's contention that graduation from Mahila Gram Vidhyapeeth, Nardipur cannot be accepted as it is not the statutory University constituted under the provisions of law and it is not a deemed university within the meaning of the University Grants Commission Act. The petitioner must meet with the requirements of Statute-187 and the Competent Authority was required to consider as to whether the First Degree itself was recognized by the University or not. The deponent has pointed out that having regard to the course of studies, duration of course and having regard to the first graduation degree being not from a statutory University or deemed University, it was resolved by the University not to approve the appointment of the petitioner. It is further pointed out that it is competent for the North Gujarat University to decide as to the qualifications which should be considered to be equivalent for the purpose of consideration whether a candidate has obtained a Degree or not. It is pointed out that relying on Statute-187, the candidates concerned must have a good academic record and authorities were required to consider the marks obtained at the Pre-University, First Year, Second Year and Third Year Examinations held by the University. The petitioner could not satisfy the requirement of Note-2 to the Statute-187. It cannot be said that she has passed any of the examinations from the statutory University.

4. The learned advocate orally submitted that the

State Government has issued instructions to its subordinate officers directing them to consider this Degree for the purpose of appointment in its various branches. It is required to be noted that so far as the education is concerned, the University is a sole Judge to consider this aspect. Ordinarily, it is not prudent for the Court to interfere in such matter when the petitioner has not passed any basic Degree from a University approved by the University Grants Commission. The petitioner cannot insist that the examination cleared by her should be considered as having the same equivalence to that of B.A. Degree. For appointment as a teacher in a college, whole career is to be considered. Therefore, requirement of Statute-187 was required to be considered by the University in arriving at a conclusion that whether the candidate who has appeared has passed, as required, or not. There is no affidavit in rejoinder to the affidavit of the University.

5. The Apex Court in the case of Rajendra Prasad Mathur Vs Karnataka University and Ors., reported in AIR 1986 SC 1448, has pointed out that it is for each University to decide the question of equivalence of an examination held by any other Board or University with the examination which primarily constitutes the basis of eligibility. The Court further pointed out that it is for each University to decide the question of equivalence of examinations and it would not be right for the Court to sit in judgement over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University.

In case of University of Mysore Vs C.D. Govind Rao, reported in AIR 1965 SC 491, the Apex Court pointed out that where one of the qualifications for the appointment to the post of a Reader in the University was that the applicant should possess a First or High Second Class Master's Degree of an Indian University or an equivalent qualification of a foreign University, the candidate should possess a First Class Master's Degree of an Indian University or High Second Class Master's Degree of an Indian University or qualification of a foreign university which is equivalent to a First Class or a High Second Class Master's Degree of an Indian University. Whether the foreign degree is equivalent to a High Second

Class Master's Degree of an Indian University is a question relating purely to an academic matter and the Courts would naturally hesitate to express a definite opinion, specially when the selection Board of experts considers a particular foreign University Degree as so equivalent.

In the case of Mohammad Shujat Ali & Ors. Vs Union of India & Ors., reported in AIR 1974 SC 1631, the Apex Court pointed out that the question with regard to equivalence of educational qualifications is a technical question based on proper assessment and equal evaluation of the relevant academic standards and practical attainments of such qualifications and where the decision of the Government is based on the recommendation of an expert body which possesses the requisite knowledge, skill and expertise for adequately discharging such a function, the Court, uninformed of relevant data and unaided by the technical insights necessary for the purpose of determining equivalence could not lightly disturb the decision of the Government. It is only where the decision of the Government is shown to be based on extraneous or irrelevant considerations or actuated by mala fides or irrational and perverse or manifestly wrong that the Court would reach out its lethal arm and strike down the decision of the Government.

In the instance case, the University has, by filing an Affidavit, pointed out the appointment criteria as per statute and has also pointed out as to what is required to be taken into consideration. The Court would not like to interfere with a decision taken by the University keeping in mind the requirements of Statute-187.

6. It is competent for the North Gujarat University to frame statutes and ordinance and also to lay down academic criteria and qualifications required of a candidate. The University has pointed out that the petitioner cannot be treated to be qualified for the appointment to the post of Lecturer in Home Science. As the petitioner was not possessing the requisite qualification as required by the University, University has not approved the appointment, as a result of this, the College has addressed a letter to the petitioner. It is required to be noted that appointment to the post was subject to the approval that may be made by the University. The petitioner was well aware about the situation. Letter, Annexure-A, makes it very clear that appointment was subject to the approval of the University and the University has not approved the same. I find no

reason to interfere with the order made and the petition, therefore, is dismissed. Rule discharged. No order as to costs.

(B.C. Patel, J.)

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